

## **~~Rule 375-1-6-.01 Appeals of the Denial, Revocation, Suspension, or Cancellation of Driver Improvement Licenses, or of the Imposition of a Civil Penalty Against an Owner or Instructor of a Driver Improvement Clinic~~**

~~(1) The hearing and appeal procedures provided for in the Georgia Administrative Procedure Act shall be followed in cases involving the denial, revocation, suspension, or cancellation of licenses for owners and instructors of Driver Improvement Clinics, or the imposition of a civil penalty.~~

~~(2) Cases shall be conducted in accordance with the following procedures:~~

~~(a) Initiating a case. Any person who is legally entitled to contest a ruling or order of the Department may do so by filing with the Department a request for hearing within ten (10) days after receipt of the Department's ruling or order which shall contain the following:~~

- ~~1. A title which indicates the nature of the proceedings;~~
- ~~2. The complete name and address of the party filing the request;~~
- ~~3. The name and address of all other interested parties;~~
- ~~4. A clear and concise statement of the facts upon which the contested case arises;~~
- ~~5. The legal authority under which the appeal is filed, including all code sections;~~
- ~~6. A prayer setting forth the relief sought;~~
- ~~7. If the party filing the request is represented by counsel, the name and address of counsel.~~

~~Failure to submit the required information may result in the denial of the request for hearing or, in the discretion of the Department, may result in deferral of the referral of the hearing request until all required information has been provided.~~

~~(b) All requests for a hearing must be signed by the party requesting the hearing or by the party's counsel, if represented by counsel.~~

~~(c) Limitation on right to a hearing. The Department will grant hearings as a matter of right only upon timely receipt of a complete request therefor as described in (a) above, but may, in its discretion, allow extensions of time and amendments of requests for good cause shown.~~

~~(d) Upon receipt of a timely, properly completed request for a hearing, the Department will forward the request and all pertinent documents to the Georgia Office of State Administrative Hearings in accordance with that agency's rules.~~

- ~~(e) Hearings. All hearings will be held in accordance with all applicable statutes and with the rules of the State Office of Administrative Hearings and the Department of Motor Vehicle Safety.~~
- ~~(f) Pursuant to O.C.G.A. § 50-13-41(d), the decisions of the Office of State Administrative Hearings shall constitute an initial decision of the Department.~~
- ~~(g) Conduct of agency review.~~
  - ~~1. There shall be available an agency review of the decision of the Administrative Law Judge.~~
  - ~~2. Agency review will be conducted by the Commissioner or by the Commissioner's designee.~~
  - ~~3. Requests for agency review shall be submitted in writing to the Department within thirty (30) days from the date of the initial decision. No review shall be held if requested thereafter except where events uncontrollable by the aggrieved party are shown to have prevented a timely request. In this regard, the decision of the agency shall be final.~~
  - ~~4. A party desiring agency review may submit to the agency written arguments, briefs and motions with a request for agency review. On agency review, the appealing party shall not present further arguments, briefs, or motions to the agency except in writing and as specifically authorized.~~
  - ~~5. The agency decision will be based solely on the record developed before the Administrative Law Judge and such arguments, briefs and motions as have been submitted in accordance with subparagraph (g)(4) above. No further evidence will be received by the agency in any form.~~
  - ~~6. If the party requesting agency review desires that the agency consider matters that are not part of the record, the agency should be requested to remand the matter to the Administrative Law Judge for receipt of such additional evidence. Remands for the purpose of receiving additional evidence will be granted only if deemed by the agency to be justified upon a showing that the evidence was not available at the time of the hearing, through no fault of the party requesting the remand, and could not have been made available by the exercise of reasonable diligence.~~
  - ~~7. The agency may dispose of the case in any of the following ways:~~
    - ~~(i) Affirm the initial decision of the Administrative Law Judge and adopt the findings and/or conclusions as is deemed appropriate;~~
    - ~~(ii) Adopt a new decision based on the record;~~
    - ~~(iii) Remand the case to the Administrative Law Judge for such further proceedings as the agency may order;~~
    - ~~(iv) Reverse the hearing officer's decision and enter such order in the case as is deemed appropriate.~~

- ~~(h) Rehearings. Motions to reconsider an agency decision or ruling must be received by the Department within ten (10) days after the decision or ruling is rendered.~~
- ~~(i) Any appeals to the superior court from a final agency decision under this rule shall be served in accordance with Ga. Admin. Comp. Ch. 375-1-1-.02 (1).~~

**Authority: O.C.G.A. §§ 40-5-80 *et seq.*, 50-13-13 *et seq.*, 50-13-41.**

## **SYNOPSIS**

### **STATEMENT OF PURPOSE AND MAIN FEATURES OF PROPOSED RULE**

The purpose of this repeal is to consolidate and update agency rules and regulations. New Ga. Comp. R. & Regs. R. 375-1-1-.06 encompasses all appeal procedures.

### **DIFFERENCE BETWEEN EXISTING AND PROPOSED RULES**

This proposed amendment would repeal the current rule in its entirety.